



**SMITH HAUGHEY
RICE & ROEGGE**

ATTORNEYS AT LAW

100 Monroe Center NW
Grand Rapids, MI 49503-2251
Phone: 616-774-8000 Fax: 616-774-2461

Jonathan J. Siebers

Direct: 616-458-5298

jsiebers@shrr.com

June 8, 2012

Mr. James M. Iwanicki, PE, Engineer-Manager
Marquette County Road Commission
1610 N. Second Street
Ishpeming, MI 49849

RE: Wolf Lake Road Weight Restrictions
Our File No. 104031

Dear Mr. Iwanicki:

Wolf Lake Road is a county primary road that runs through Humbolt Township, Marquette County, Michigan. Humbolt Township passed a resolution on June 7, 2012, to enact a weight restriction ordinance that imposes a 10-ton weight limit on that portion of Wolf Lake Road lying within Humbolt Township. You asked me whether Humbolt Township has the legal authority to impose such a weight restriction, and whether such a weight restriction requires the consent of Marquette County Road Commission. For the reasons that follow, Humbolt Township has the legal authority to impose a weight restriction on a county primary road within Humbolt Township without Road Commission input or consent.

According to MCL 257.726, a copy of which is attached: "Local authorities...by ordinance or resolution, may do any of the following: (a) Prohibit the operation of trucks or commercial vehicles on designated highways or streets; (b) Impose limitations as to the weight of trucks or other vehicles on designated highways or streets; (c) Provide that only certain highways or streets may be used by trucks or other commercial vehicles." MCL 257.726(1). Thus, a Michigan township has the express statutory authority to impose weight limits on highways or streets that run through that township, and Humbolt Township's resolution is authorized by Michigan statutory law.

Further, Michigan courts have consistently held that a Michigan township has the right to impose weight restrictions, and to designate truck routes, on county primary roads within that township. *Township of Robinson v. Board of County Road Commissioners of County of Ottawa*, 114 Mich.App. 405 (1982) (upholding township's right to designate truck routes); *C&T Transport Inc. v. York Township*, 252 Mich.App. 524 (upholding township's right to impose 10,001 pound weight restriction). Thus, Humbolt Township's resolution to enact weight restrictions on Wolf Lake Road is supported by Michigan case law.

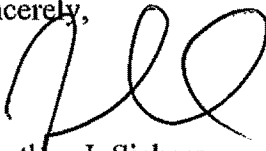
SMITH HAUGHEY RICE & ROEGGE

June 8, 2012

Page 2

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to be 'JJS', written over the word 'Sincerely,'.

Jonathan J. Siebers

JJS/hb

Enclosure

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.726 Prohibitions, limitations, or truck route designations by local authorities and county road commissions; signs; written objection by adjoining township; violation as civil infraction.

Sec. 726. (1) Local authorities and county road commissions with respect to highways under their jurisdiction, except state trunk line highways, by ordinance or resolution, may do any of the following:

(a) Prohibit the operation of trucks or other commercial vehicles on designated highways or streets.

(b) Impose limitations as to the weight of trucks or other commercial vehicles on designated highways or streets.

(c) Provide that only certain highways or streets may be used by trucks or other commercial vehicles.

(2) Any prohibitions, limitations, or truck route designations established under subsection (1) shall be designated by appropriate signs placed on the highways or streets. The design and placement of the signs shall be consistent with the requirements of section 608.

(3) If a township has established any prohibition or limitation under subsection (1) on any county primary road that an adjoining township determines diverts traffic onto a border highway or street shared by the township and the adjoining township, the adjoining township may submit a written objection to the county road commission having jurisdiction over the county primary road, along with a copy to the township that established the prohibition or limitation, on or before the later of March 1, 2009, or 60 days after the township approves the prohibition or limitation. The written objection shall explain how the prohibition or limitation diverts traffic onto the border highway or street shared by the township and the adjoining township. The county road commission shall then investigate the objection. The township and adjoining township shall cooperate with that investigation and negotiate in good faith to resolve the objection. If the objection is not resolved within 60 days after the township receives the copy of the written objection, the county road commission has the authority to, and shall, either approve or void the prohibition or limitation that is the subject of the objection within 60 days thereafter, which decision shall be final. For purposes of this subsection, "county primary road" means a highway or street designated as a county primary road pursuant to 1951 PA 51, MCL 247.671 to 247.675.

(4) A person who violates a prohibition, limitation, or truck route designation established pursuant to subsection (1) is responsible for a civil infraction.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1978, Act 510, Eff. Aug. 1, 1979;—Am. 1983, Act 107, Imd. Eff. June 30, 1983;—Am. 2008, Act 539, Imd. Eff. Jan. 13, 2009.

Constitutionality: This section was held unconstitutional insofar as it deprives a municipality of the right to reasonable control over its streets, including state trunk lines within its limits, in violation of Const 1963, art VII, § 29. City of Dearborn v Sugden and Sivier, Inc, 343 Mich 257; 72 NW2d 185 (1955).

Compiler's note: In the last sentence of subsection (3), the citation "1951 PA 51, MCL 247.671 to 247.675" evidently should read "1951 PA 51, MCL 247.651 to 247.675".